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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of
De Santis et al.
Application No.: 10/590,936
PCT No.: PCT/IT2005/000078
Int. Filing Date: 16 February 2005
Priority Date: 27 February 2004
Attorney Docket No.: 4865-91
For: Anti-Human Tenascin Monoclonal Antibody

DECISION

This is with regard to the renewed petition under 37 CFR 1.181 filed on 02 February 2009.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment, on the basis of alleged non-receipt of the Notification mailed on 29 May 2007. In a Decision mailed on 01 December 2008, the petition for withdrawal of the holding of abandonment filed on 23 September 2008 was dismissed, without prejudice, because

In response, petitioner again explains certain aspects of the Nixon & Vanderhye docketing system, and describes the entry of docketing data into both a computer-based docket record and a paper Master Docket record. It appears that the docket records submitted with the instant renewed petition are pages from that Master Docket record, dated 28, 29 and 30 July 2007. Petitioner also references "the computer-based docket record (Exhibit A) for the subject application," apparently in reference to the Exhibit A filed on 11 August 2008 and addressed in the previous Decision. However, petitioner has not furnished complete copies of the relevant pages from the computerized docket record showing all cases docketed for response on or around 29 July 2007. Such sheets would be highly probative, in corroborating the indicia appearing in the hand-written Master Docket record. Petitioner should either provide copies of said electronic record, or explicitly state (if appropriate) that counsel's system is not capable of producing such a record.

The renewed petition states that "submitted herewith are copies of the electronic docketing records of Nixon & Vanderhye P.C. covering the time period from July 27 through August 1, 2007, which are the days around the July 29, 2007 due date for the subject application. Note that this report not only indicates the due date but also the mailing date of the Official Action to which response is being made." The accompanying "Patent Actions Due Report" lists applications for which responses were due on (and around) the 29 July 2007 due date for response in the instant case. Based on the totality of the evidence now of record, it would be appropriate to conclude that petitioner has satisfied all of the criteria for relief. Therefore, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 11 July 2008 is hereby VACATED. The holding of abandonment is WITHDRAWN.

It is noted that, on page 4 of the petition filed 11 August 2008, counsel states that a response was submitted therewith and that "there is no need to reissue the Notification with a fresh response due date as all issues are being addressed with the concurrently filed response."

DECISION

The petition is **GRANTED**.

This application is being returned to the Office of Patent Application Processing for further proceedings, including the review and processing of the sequence listing submission of 11 August 2008.

/George Dombroske/
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